

The remainder of the article was labeled in part, "D. Ghirardelli's Confectioners Sweet Chocolate O Coating * * *"

Adulteration of the article was alleged in the libel for the reason that a certain substance, to wit, cocoa shells, had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength and had been substituted wholly or in part for the said article.

On August 26, 1921, the D. Ghirardelli Co., San Francisco, Calif., claimant, having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,150, in conformity with section 10 of the act, conditioned in part that it be relabeled with a conspicuous legend as "Containing Excessive Cocoa Shells."

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

10227. Misbranding of Nervosex tablets. U. S. * * * v. 4 Boxes * * * of Drug Products. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 15123. Inv. No. 30884. S. No. C-3109.)

On July 13, 1921, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 4 boxes of drug products, at Belleville, Tex., alleging that the article had been shipped by the United Laboratories, St. Louis, Mo., on or about June 18, 1920, and transported from the State of Missouri into the State of Texas, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Box) "Nervosex Tablets. A compound of Nerve and Muscle Stimulants for Low Vitality, Lack of Energy, Sexual Weakness * * *."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that the tablets contained zinc phosphid, calcium phosphate, an iron compound, and vegetable extractives, including nux vomica.

Misbranding of the article was alleged in substance in the libel for the reason that the above-quoted statements appearing on the label of the said box, regarding the curative or therapeutic effect of the said article, were false and fraudulent in that the said article contained no ingredient or combination of ingredients capable of producing the curative or therapeutic effects claimed.

On January 9, 1922, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

10228. Misbranding of Lung Germine. U. S. * * * v. 10 Bottles and 30 Bottles * * * of Lung Germine. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 15137, 15138. I. S. No. 666-t. Inv. No. 31334. S. Nos. C-3113, C-3117.)

On July 16 and 21, 1921, respectively, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 40 bottles of Lung Germine, at Chicago, Ill., alleging that the article had been shipped in part by the Rox Chemical Co., Louisville, Ky., September 21, 1920, and in part by the Lung Germine Co., Jackson, Mich., May 21, 1921, and transported from the States of Kentucky and Michigan, respectively, into the State of Illinois, and charging misbranding in violation of the Food and Drugs Act, as amended.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted essentially of sulphuric acid and water with small amounts of iron sulphate, alcohol, and aromatics.

Misbranding of the article was alleged in the libels for the reason that the package or label did not bear a statement of the quantity or proportion of alcohol contained therein. Misbranding was alleged for the further reason that the statement on the bottle and carton, "Alcohol by Volume 10 per cent" ["Contains 10% Alcohol"], was false and misleading in that the said article did not contain 10 per cent of alcohol by volume but did contain a less quantity of alcohol by volume, namely, 2.25 per cent. Misbranding was alleged in substance for the further reason that the following statements regarding the curative or therapeutic effect of the said article, appearing on the labels of the bottle and carton containing the same, to wit, (bottle) "* * * Treatment For Relief Of De-

fective Nutrition and for Increasing Strength and General Health where Mucous Membranes are Susceptible to Lung Disease and Pulmonary Disorganization with Bronchial Irritation. (In Pre-tubercular stages) * * * Use no other lung medicine while using Lung Germine. Read carefully the circular accompanying this bottle * * *," (carton) "Your Lungs Are They Weak Or Painful? Do your lungs ever bleed? Do you have night sweats? Are you short of breath? Have you pains in chest and sides? Do you spit yellow and black matter? Do you have pains under your shoulder blades? These Are Regarded Symptoms of Lung Trouble Do Not Neglect These Symptoms Keep Lung Germine in your home ready for immediate use at the first sign of Membraneous Lung Disease or Bronchial Irritation. * * * Treatment For Relief of Defective Nutrition and for Increasing Strength and General Health where Mucous Membranes are Susceptible to Lung Diseases and Pulmonary Disorganization with Bronchial Irritation (In Pre-tubercular Stages) * * *," were false and fraudulent in that the said statements were applied to the article so as to represent falsely and fraudulently, and to create in the minds of purchasers thereof the impression and belief, that the said article was composed of or contained ingredients or combinations of ingredients effective as a remedy for the several diseases, ailments, and afflictions mentioned upon the said labels.

On November 14, 1921, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

10229. Misbranding of olive oil. U. S. * * * v. 56 Cans * * * of Olive Oil. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 15146. I. S. No. 6415-t. S. No. E-3468.)

On July 26, 1921, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 56 cans of olive oil, remaining unsold at Hoboken, N. J., alleging that the article had been shipped by Economou & Theodos, New York, N. Y., on or about May 12, 1921, and transported from the State of New York into the State of New Jersey, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part, "Rigoletto Brand Virgin Pure Olive Oil * * * Net Contents 1 Gal. * * *."

Misbranding of the article was alleged in the libel for the reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the stated quantity, to wit, "Net Contents 1 Gal.," was greater than the actual net contents of the said package.

On February 15, 1922, N. P. Economou & Theodos, New York, N. Y., claimants, having consented to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimants upon payment of the costs of the proceedings and the execution of a bond in the sum of \$500, in conformity with section 10 of the act, conditioned in part that the said product be not shipped or sold unless re-branded and properly marked.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

10230. Adulteration and misbranding of blend sirup. U. S. * * * v. 8 Barrels and 5 Barrels of Blend Sirup * * * Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 13020, 13021. I. S. Nos. 917-r, 918-r, 919-r. S. Nos. E-2423, E-2424.)

On July 13, 1920, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 8 barrels and 5 barrels of blend sirup, remaining in the original unbroken packages at Scranton, Pa., alleging that the article had been shipped by the Cuban Refining Co., Rochester, N. Y., on or about May 14 and 24 and June 3, 1920, respectively, and transported from the State of New York into the State of Pennsylvania, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Shipping package) "Blend Syrup"; (shipping tag) "Order of Cuban Refining Company Rochester N. Y. * * *"